

उत्तर प्रदेश शासन

चिकित्सा अनुभाग-2

संख्या- 37 /सेक-2-पांच-15-6(92)/2015

लखनऊ, दिनांक : 02 जनवरी, 2016

कार्यालय ज्ञाप

पारस के कार्यालय ज्ञाप संख्या-130/2015/2444/सेक-2-पांच-15-4(288)/2015, दिनांक 06.08.2015 द्वारा डा0 वृजेश चन्द्र पाण्डेय (वरिष्ठता क्रमांक-6184), अधीन मुख्य चिकित्साधिकारी, अमेठी को उनकी लेवल-3 से लेवल-4 के पद पर पदोन्नति के फलस्वरूप उनके जनपद अमेठी में विभिन्न अवधियों में लगभग 12 वर्ष तक तैनात रहन एवं उनकी विशेषज्ञता रेडियोलॉजिस्ट होने के दृष्टिगत उन्हें वरिष्ठ परामर्शदाता (रेडियोलॉजिस्ट), जिला चिकित्सालय, फैजाबाद के पद पर तैनात/समायोजित किया गया। इसी प्रकार कार्यालय-ज्ञाप संख्या-140/2015/2445/सेक-2-पांच-15-4(288)/2015, दिनांक 06.08.2015 द्वारा डा0 आनन्द ओझा (वरिष्ठता क्रमांक-6442), जिला क्षय रोग अधिकारी, बाराबंकी को मुख्य चिकित्साधिकारी, अमेठी के पद पर तैनात किया गया।

2- डा0 वृजेश चन्द्र पाण्डेय द्वारा अपने स्थानान्तरण के विरुद्ध मा0 उच्च न्यायालय, लखनऊ बेंच, लखनऊ में रिट याचिका संख्या-1252(एस/बी)/2015 डा0 वृजेश चन्द्र पाण्डेय बनाम उ0प्र0 राज्य व अन्य योजित की गयी, जिसमें सुनवाई करते हुए मा0 उच्च न्यायालय द्वारा दिनांक 03.09.2015 को निम्नलिखित आदेश पारित किये गये हैं:-

"Heard Mr. S.K. Kalia, learned Senior Counsel assisted by Mr. Vidhu Bhushan Kalia, learned counsel for the petitioner as well as Mr. H.G.S. Parihar, learned counsel for the respondent no. 5 and learned Additional Chief Standing Counsel.

The petitioner has assailed the Office Memorandum dated 06.08.2015, whereby he has been transferred from the post of Incharge Chief Medical Officer, Amethi to the post of Senior Consultant (Radiologist), District Hospital, Faizabad as also the order dated 06.08.2015, whereby the respondent no. 5 has been posted as Chief Medical Officer, Amethi.

After serving at several places, lastly in 2012, the petitioner was posted at Community Health Centre, Bhadar, District Amethi, where he worked as such till, he was given the charge of Chief Medical Officer on 31.07.2015. The present transfer of the petitioner has been said to be on promotion from Level-III to Level-IV to the post of Senior Consultant (Radiologist), District Hospital, Faizabad. It is stated that the post of Level-IV i.e. the post of Chief Medical Officer is still vacant in district Amethi, therefore, the petitioner could have been confirmed on the post of Chief Medical Officer, Amethi.

It has further been urged that the petitioner has to retire within one and a half year by 31.12.2016, therefore, in terms of transfer policy dated 01.05.2015, he should be allowed to remain posted at Amethi, which is adjoining to his home district. His home district is district Pratapgarh. It has also been urged that when being all the situations in favour of the petitioner, he has been subjected for transfer on account of political pressure as there has been several recommendations of the political persons to post respondent no. 5 as Chief Medical Officer, Amethi.

On being raised such pleas, we called upon the original record of transfer of the petitioner as well as respondent no. 5. We perused the same and found that assertion of the petitioner is true. There are high recommendations of political persons including the Hon'ble Ministers, who have no concern with the petitioner's department, in favour of respondent no. 5 to post him as Chief Medical Officer, Amethi. The notings of the file also establish that the petitioner has been transferred just to accommodate the respondent no. 5 at Amethi. In such a situation, we are of the view that, though in ordinary course, the Court does not interfere with the matter of transfer unless there is a change of cadre or it is based on malafide, yet the situation discussed above, has led us to have consideration over the matter so that the political recommendations in the matter of transfer may not get appreciation particularly from judicial side.

The record further reveals that both of them had been posted at Amethi earlier also for a quite length of service and as is evident from the record, repeatedly, they had been allowed to be posted either at Amethi or adjoining districts, however, we do not find any occasion to inquire the reasons behind it but it is not a case where we should close our eyes and give the way to be implemented political dicta just to subserve the oblique motive of any person may be so high, therefore, once we do not appreciate such transfer and posting, we quash the order of transfer dated 06.08.2015, whereby the respondent no. 5 has been posted as Chief Medical Officer at Amethi. Simultaneously, we also do not feel it appropriate to restore back the petitioner at Amethi. In view of this, we hereby provide that the petitioner is at liberty to make a representation to the State Government for his posting keeping in view the transfer policy at any of the districts adjoining to his home district except district Amethi.

The respondent no. 5 is also permitted to make a representation to the State Government for his posting at appropriate place by giving option of some places so that it may be convenient for the State Government to post him accordingly in terms of transfer policy. The State Government shall pass necessary orders within a week from today.

Till the decision is taken by the State Government as observed above, no coercive action shall be taken against the petitioner as well as respondent no. 5 in transfer matter.

Accordingly, the writ petition is disposed of finally.

A copy of this order shall be provided to the learned Additional Chief Standing Counsel to communicate the same to the State Government."

3— डा० आनन्द ओझा द्वारा उक्त रिट याचिका में पारित आदेश दिनांक 03.09.2015 के विरुद्ध मा० उच्च न्यायालय में रिव्यु याचिका संख्या-384/2015 योजित की गयी, जिसमें मा० उच्च न्यायालय द्वारा दिनांक 11.09.2015 को सुनवाई करते हुए खारिज कर दिया गया। फलस्वरूप याची डा० पाण्डेय द्वारा मा० उच्च न्यायालय के आदेश दिनांक 03.09.2015 के अनुपालन में प्रत्यावेदन दिनांक 10.09.2015 प्रस्तुत करते हुए मुख्य चिकित्साधिकारी, अमेठी, मुख्य चिकित्साधिकारी/संयुक्त निदेशक, इलाहाबाद, मुख्य चिकित्साधिकारी/संयुक्त निदेशक, फैजाबाद मण्डल, फैजाबाद के पद पर तैनात किये जाने का अनुरोध किया गया। प्रकरण में मा० न्यायालय द्वारा याची को शासन के समक्ष अपना प्रत्यावेदन प्रस्तुत किये जाने तथा शासन को डा० पाण्डेय के प्रत्यावेदन पर विचार करते हुए उनके गृह जनपद से लगे हुए जनपद में तैनात किये जाने के आदेश दिये गये हैं।

4— उपर्युक्त वर्णित स्थिति के आलोक में मा० उच्च न्यायालय, लखनऊ बेंच, लखनऊ में योजित रिट याचिका संख्या-1252(एस/बी)/2015 डा० बृजेश चन्द्र पाण्डेय बनाम उ०प्र० राज्य व अन्य में पारित आदेश दिनांक 03.09.2015 के अनुपालन में सम्यक विचारोपरान्त याची डा० बृजेश चन्द्र पाण्डेय का जनपद अमेठी से जिला चिकित्सालय, फैजाबाद किये गये स्थानान्तरण आदेश दिनांक 06.08.2015 को निरस्त करते हुए उन्हें उनके गृह जनपद प्रतापगढ़ से लगे जनपद सुलतानपुर के जिला चिकित्सालय में वरिष्ठ परामर्शदाता के पद पर एतद्वारा तैनात किया जाता है। फलस्वरूप याची डा० बृजेश चन्द्र पाण्डेय, अधीन मुख्य चिकित्साधिकारी, अमेठी के प्रत्यावेदन दिनांक 10.09.2015 को उपर्युक्तानुसार निस्तारित किया जाता है।

अरविन्द कुमार
प्रमुख सचिव।


संख्या- 34 (1)/सेक-2-पांच-15, तददिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- 1— महानिदेशक, चिकित्सा स्वास्थ्य सेवाएं, उ०प्र०, लखनऊ।
- 2— निदेशक (प्रशासन), चिकित्सा स्वास्थ्य सेवाएं, उ०प्र०, लखनऊ।
- 3— मिशन निदेशक, एन०एच०एम०, लखनऊ।
- 4— जिलाधिकारी, अमेठी।
- 5— अपर निदेशक, चिकित्सा स्वास्थ्य एवं परिवार कल्याण, फैजाबाद मण्डल, फैजाबाद।

- 6- प्रमुख अधीक्षक, जिला चिकित्सालय, फैजाबाद।
- 7- मुख्य स्थायी अधिवक्ता, मा0 उच्च न्यायालय, इलाहाबाद को रिट याचिका संख्या-1252(एस/बी)/2015 डा0 बृजेश चन्द्र पाण्डेय बनाम उ0प्र0 राज्य व अन्य में पारित आदेश दिनांक 03.09.2015 के क्रम।
- 8- मुख्य चिकित्साधिकारी, अमेठी।
- 9- मुख्य चिकित्सा अधीक्षक, जिला चिकित्सालय सुलतानपुर।
- 10- कोषाधिकारी, अमेठी/फैजाबाद/सुलतानपुर।
- 11- संबंधित चिकित्साधिकारी।
- 12- गार्ड बुक।

आज्ञा से,


(विनोद कुमार सिंह)
संयुक्त सचिव।

उत्तर प्रदेश शासन

चिकित्सा अनुभाग-2

संख्या- 135 / सेक-2-पांच-15-6(92)/2015

लखनऊ, दिनांक : 14 जनवरी, 2016

कार्यालय ज्ञाप

आर.एम. के कार्यालय ज्ञाप संख्या-139/2015/2444/सेक. 2-पांच 15

4(288)/2015, दिनांक 06.08.2015 द्वारा डा0 वृजेश चन्द्र पाण्डेय (वरिष्ठता क्रमांक-6184) अधीन मुख्य चिकित्साधिकारी, अमेठी को उनकी लेवल-3 से लेवल-4 के पद पर पदान्तरित के फलस्वरूप उनके जनपद अमेठी में विभिन्न अवधियों में लगभग 12 वर्ष तक तैनात रहने एवं उनकी विशेषज्ञता रेडियोलॉजिस्ट होने के दृष्टिगत उन्हें वरिष्ठ परामर्शदाता (रेडियोलॉजिस्ट), जिला चिकित्सालय, फैजाबाद के पद पर तैनात/समायोजित किया गया। इसी प्रकार कार्यालय-ज्ञाप संख्या-140/2015/2445/सेक-2-पांच-15-4(288)/2015, दिनांक 06.08.2015 द्वारा डा0 आनन्द ओझा (वरिष्ठता क्रमांक-6442), जिला क्षय रोग अधिकारी, बाराबंकी को मुख्य चिकित्साधिकारी, अमेठी के पद पर तैनात किया गया।

2- डा0 वृजेश चन्द्र पाण्डेय द्वारा अपने स्थानान्तरण के विरुद्ध मा0 उच्च न्यायालय, लखनऊ बेंच, लखनऊ में रिट याचिका संख्या-1252(एस/बी)/2015 डा0 वृजेश चन्द्र पाण्डेय बनाम उ0प्र0 राज्य व अन्य योजित की गयी, जिसमें सुनवाई करते हुए मा0 उच्च न्यायालय द्वारा दिनांक 03.09.2015 को निम्नलिखित आदेश पारित किये गये हैं:-

"Heard Mr. S.K. Kalia, learned Senior Counsel assisted by Mr. Vidhu Bhushan Kalia, learned counsel for the petitioner as well as Mr. H.G.S. Parihar, learned counsel for the respondent no. 5 and learned Additional Chief Standing Counsel.

The petitioner has assailed the Office Memorandum dated 06.08.2015, whereby he has been transferred from the post of Incharge Chief Medical Officer, Amethi to the post of Senior Consultant (Radiologist), District Hospital, Faizabad as also the order dated 06.08.2015, whereby the respondent no. 5 has been posted as Chief Medical Officer, Amethi.

After serving at several places, lastly in 2012, the petitioner was posted at Community Health Centre, Bhadar, District Amethi, where he worked as such till, he was given the charge of Chief Medical Officer on 31.07.2015. The present transfer of the petitioner has been said to be on promotion from Level-III to Level-IV to the post of Senior Consultant (Radiologist), District Hospital, Faizabad. It is stated that the post of Level-IV i.e. the post of Chief Medical Officer is still vacant in district Amethi, therefore, the petitioner could have been confirmed on the post of Chief Medical Officer, Amethi.

It has further been urged that the petitioner has to retire within one and a half year by 31.12.2016, therefore, in terms of transfer policy dated 01.05.2015, he should be allowed to remain posted at Amethi, which is adjoining to his home district. His home district is district Pratapgarh. It has also been urged that when being all the situations in favour of the petitioner, he has been subjected for transfer on account of political pressure as there has been several recommendations of the political persons to post respondent no. 5 as Chief Medical Officer, Amethi.

On being raised such pleas, we called upon the original record of transfer of the petitioner as well as respondent no. 5. We perused the same and found that assertion of the petitioner is true. There are high recommendations of political persons including the Hon'ble Ministers, who have no concern with the petitioner's department, in favour of respondent no. 5 to post him as Chief Medical Officer, Amethi. The notings of the file also establish that the petitioner has been transferred just to accommodate the respondent no. 5 at Amethi. In such a situation, we are of the view that, though in ordinary course, the Court does not

interfere with the matter of transfer unless there is a change of cadre or it is based on malafide, yet the situation discussed above, has led us to have consideration over the matter so that the political recommendations in the matter of transfer may not get appreciation particularly from judicial side.

The record further reveals that both of them had been posted at Amethi earlier also for a quite length of service and as is evident from the record, repeatedly, they had been allowed to be posted either at Amethi or adjoining districts, however, we do not find any occasion to inquire the reasons behind it but it is not a case where we should close our eyes and give the way to be implemented political dicta just to subserve the oblique motive of any person may be so high, therefore, once we do not appreciate

such transfer and posting, we quash the order of transfer dated 06.08.2015, whereby the respondent no. 5 has been posted as Chief Medical Officer at Amethi. Simultaneously, we also do not feel it appropriate to restore back the petitioner at Amethi, however, we hereby provide that the petitioner is at liberty to make a representation to the State Government for his posting keeping in view the transfer policy at any of the districts adjoining to his home district except district Amethi.

The respondent no. 5 is also permitted to make a representation to the State Government for his posting at appropriate place by giving option of some places so that it may be convenient for the State Government to post him accordingly in terms of transfer policy. The State Government shall pass necessary orders within a week from today.

Till the decision is taken by the State Government as observed above, no coercive action shall be taken against the petitioner as well as respondent no. 5 in transfer matter.

Accordingly, the writ petition is disposed of finally.

A copy of this order shall be provided to the learned Additional Chief Standing Counsel to communicate the same to the State Government."

3— डा0 आनन्द ओझा द्वारा उक्त रिट याचिका में पारित आदेश दिनांक 03.09.2015 के विरुद्ध मा0 उच्च न्यायालय में रिज्यू याचिका संख्या-384/2015 योजित की गयी, जिसमें मा0 उच्च न्यायालय द्वारा दिनांक 11.09.2015 को सुनवाई करते हुए खारिज कर दिया गया। डा0 आनन्द ओझा द्वारा मा0 उच्च न्यायालय द्वारा पारित उपर्युक्त आदेश दिनांक 03.09.2015 एवं 11.09.2015 के विरुद्ध मा0 उच्चतम न्यायालय में विशेष अनुज्ञा याचिका संख्या-29784-29785/2015 आनन्द ओझा बनाम बृजेश चन्द्र पाण्डेय व अन्य योजित की गयी, जिसमें मा0 उच्चतम न्यायालय द्वारा दिनांक 30.10.2015 को निम्नवत् आदेश पारित किया गया है:-

"The learned counsel for the petitioner has submitted that Respondent No.1 has already been given a posting subsequent to the judgment and there is no other person who is posted as Amethi. It is further submitted that Respondent No.1 may not have any further interest since he has already accepted the posting.

In view of the submission, as above, we permit the petitioner to make a fresh representation before Respondent No.2-State within two weeks from today and Respondent No.2-State may consider the same uninfluenced by any observations made in the impugned Judgment and pass appropriate orders thereon in accordance with law.

Till the orders are passed in the representation, as above, the petitioner shall not be disturbed.

In view of the above, the Special Leave Petitions are disposed of.

Pending interlocutory applications, if any, are disposed of."

4— मा0 उच्चतम न्यायालय के आदेश दिनांक 30.10.2015 के अनुपालन में याची डा0 आनन्द ओझा द्वारा प्रत्यावेदन दिनांक 03.11.2015 प्रस्तुत किया गया, जिसमें उनके द्वारा

जनहित में स्वयं को जनपद अमेठी में ही मुख्य चिकित्साधिकारी के पद पर निरन्तर बने रहने की अनुमति/आदेश दिये जाने का अनुरोध किया गया है।


5- उपर्युक्त वर्णित स्थिति के आलोक में मा० उच्चतम न्यायालय में योजित विशेष अनुज्ञा याचिका संख्या-29784-29785/2015 आनन्द ओझा बनाम बृजेश चन्द्र पाण्डेय व अन्य में पारित आदेश दिनांक 30.10.2015 के अनुपालन में सम्यक विचारोपरान्त याची डा० आनन्द ओझा को मुख्य चिकित्साधिकारी, अमेठी के पद पर यथावत् बने रहने की एतद्द्वारा स्वीकृति प्रदान की जाती है। फलस्वरूप याची डा० आनन्द ओझा, मुख्य चिकित्साधिकारी, अमेठी के प्रत्यावेदन दिनांक 03.11.2015 को उपर्युक्तानुसार निस्तारित किया जाता है।

अरविन्द कुमार
प्रमुख सचिव।

संख्या- 35 (1)/सेक-2-पांच-15, तद्दिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषितः

- 1- महानिदेशक, चिकित्सा स्वास्थ्य सेवाएं, उ०प्र०, लखनऊ।
- 2- निदेशक (प्रशासन), चिकित्सा स्वास्थ्य सेवाएं, उ०प्र०, लखनऊ।
- 3- मिशन निदेशक, एन०एच०एम०, लखनऊ।
- 4- जिलाधिकारी, अमेठी।
- 5- अपर निदेशक, चिकित्सा स्वास्थ्य एवं परिवार कल्याण, फैजाबाद मण्डल, फैजाबाद।
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- 8- मुख्य चिकित्साधिकारी, अमेठी।
- 9- संबंधित चिकित्साधिकारी।
- 10- गार्ड बुक।

आज्ञा से,

(विनोद कुमार सिंह)
संयुक्त सचिव।